

215.304 Evaluation factors and significant subfactors.

(c)(i) In acquisitions that require use of the clause at FAR 52.219–9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, other than those based on the lowest price technically acceptable source selection process (see FAR 15.101–2), the extent of participation of small businesses and historically black colleges or universities and minority institutions in performance of the contract shall be addressed in source selection. The contracting officer shall evaluate the extent to which offerors identify and commit to small business and historically black college or university and minority institution performance of the contract, whether as a joint venture, teaming arrangement, or subcontractor.

(A) Evaluation factors may include—

(1) The extent to which such firms are specifically identified in proposals;

(2) The extent of commitment to use such firms (for example, enforceable commitments are to be weighted more heavily than non-enforceable ones);

(3) The complexity and variety of the work small firms are to perform;

(4) The realism of the proposal;

(5) Past performance of the offerors in complying with requirements of the clauses at FAR 52.219–8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns, and 52.219–9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan; and

(6) The extent of participation of such firms in terms of the value of the total acquisition.

(B) Proposals addressing the extent of small business and historically black college or university and minority institution performance may be separate from subcontracting plans submitted pursuant to the clause at FAR 52.219–9 and should be structured to allow for consideration of offers from small businesses.

(C) When an evaluation includes the factor in paragraph (c)(i)(A)(1) of this section, the small businesses, historically black colleges or universities and minority institutions, and women-owned small businesses considered in the evaluation shall be listed in any

subcontracting plan submitted pursuant to FAR 52.219–9 to facilitate compliance with 252.219–7003(g).

(ii) The costs or savings related to contract administration and audit may be considered when the offeror's past performance or performance risk indicates the likelihood of significant costs or savings.

(iii) In accordance with 10 U.S.C. 2436, consider the purchase and use of capital assets (including machine tools) manufactured in the United States, in source selections for all major defense acquisition programs, as defined in 10 U.S.C. 2430, when it is pertinent to the best value determination.

[63 FR 64428, Nov. 20, 1998, as amended at 64 FR 51076, Sept. 21, 1999; 70 FR 29644, May 24, 2005]

215.305 Proposal evaluation.

(a)(2) *Past performance evaluation.* When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219–8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause. When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219–9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause.

(b) Any determination to reject a proposal based on a violation or possible violation of Section 27 of the OFPP Act shall be made as specified in FAR 3.104.

[63 FR 55040, Oct. 14, 1998, as amended at 65 FR 39722, June 27, 2000]

Subpart 215.4—Contract Pricing**215.403 Obtaining cost or pricing data.****215.403–1 Prohibition on obtaining cost or pricing data.**

(c) *Standards for exceptions from cost or pricing data requirements—(1) Adequate price competition.* For acquisitions

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under dual or multiple source programs:

(A) The determination of adequate price competition must be made on a case-by-case basis. Even when adequate price competition exists, in certain cases it may be appropriate to obtain additional information to assist in price analysis.

(B) Adequate price competition normally exists when—

(i) Prices are solicited across a full range of step quantities, normally including a 0-100 percent split, from at least two offerors that are individually capable of producing the full quantity; and

(ii) The reasonableness of all prices awarded is clearly established on the basis of price analysis (see FAR 15.404-1(b)).

(4) *Waivers.* (A) DoD has waived the requirement for submission of cost or pricing data for the Canadian Commercial Corporation and its subcontractors.

(B) DoD has waived cost or pricing data requirements for nonprofit organizations (including education institutions) on cost-reimbursement-no-fee contracts. The contracting officer shall require—

(1) Submission of information other than cost or pricing data to the extent necessary to determine reasonableness and cost realism; and

(2) Cost or pricing data from subcontractors that are not nonprofit organizations when the subcontractor's proposal exceeds the cost or pricing data threshold at FAR 15.403-4(a)(1).

215.403-5 Instructions for submission of cost or pricing data or information other than cost or pricing data.

(b) When the solicitation requires contractor compliance with the Contractors Cost Data Reporting (CCDR) System (Army—AMCP 715-8, Navy—NAV PUB P-5241, and Air Force—AFMCP 800-15), require the contractor to submit DD Form 1921 or 1921-1 with its pricing proposal.

215.404 Proposal analysis.

215.404-1 Proposal analysis techniques.

(a) *General.* For spare parts or support equipment, perform an analysis of—

(i) Those line items where the proposed price exceeds by 25 percent or more the lowest price the Government has paid within the most recent 12-month period based on reasonably available information;

(ii) Those line items where a comparison of the item description and the proposal price indicates a potential for overpricing;

(iii) Significant high-dollar-value items. If there are no obvious high-dollar-value items, include an analysis of a random sample of items; and

(iv) A random sample of the remaining low-dollar value items. Sample size may be determined by subjective judgment, e.g., experience with the offeror and the reliability of its estimating and accounting systems.

(d) *Cost realism analysis.* The contracting officer should determine what information other than cost or pricing data is necessary for the cost realism analysis during acquisition planning and development of the solicitation. Unless such information is available from sources other than the offerors (see FAR 15.402(a)(2)), the contracting officer will need to request data from the offerors. The contracting officer—

(i) Shall request only necessary data; and

(ii) May not request submission of cost or pricing data.

215.404-2 Information to support proposal analysis.

(a) *Field pricing assistance.* (i) The contracting officer should consider requesting field pricing assistance for—

(A) Fixed-price proposals exceeding the cost or pricing data threshold;

(B) Cost-type proposals exceeding the cost or pricing data threshold from offerors with significant estimating system deficiencies (see 215.407-5-70(a)(4) and (c)(2)(i)); or

(C) Cost-type proposals exceeding \$10 million from offerors without significant estimating system deficiencies.